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Via ECF

September 4, 2024

Hon. Joanna Seybert, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Hercules Pharmaceuticals, Inc. v. Brant Cherne
2:24-cv-05659-JS-AYS

Dear Judge Seybert:

This firm represents defendant Brant Cherne in the above-referenced matter. We submit this letter in accordance with the Court's August 28, 2024 Order directing the parties to jointly propose a suitable schedule for the parties to make further submissions on the pending Motion for a Preliminary Injunction. The parties have been unable to agree upon a briefing schedule.

Defendant proposes that Plaintiff submit its brief by Monday, September 9, 2024 at 5:00 pm and that Defendant file his opposition by Thursday, September 12, 2024 at 5:00 pm. Plaintiff proposes that both parties submit briefs on Tuesday, September 10, 2024 by 5:00 pm and then each side may file a 10-page reply on or before September 12, 2024 at 5:00 pm.

Defendant respectfully requests that his proposed schedule be ordered by the Court. As the Court explained at the conclusion of the August 16, 2024 hearing, the TRO will not be extended unless Plaintiff establishes good cause to extend the injunction. The Court permitted Plaintiff to conduct expedited discovery, including performing a forensic analysis on Defendant's phone for this purpose.

There is no basis for the parties to submit briefs on the same day and time because Defendant will not know what new evidence Plaintiff will rely upon and its new arguments until he receives Plaintiff's supplemental papers. Defendant was previously prejudiced by having less than two days to submit his opposition to Plaintiff's TRO and motion for preliminary injunction and should be afforded more time – at least the three days he seeks – to oppose Plaintiff's supplemental papers.

Accordingly, Defendant respectfully requests that Plaintiff submit its brief by Monday, September 9, 2024 by 5:00 pm and that Defendant file his opposition by Thursday, September 12, 2024 by 5:00 pm.

Respectfully submitted,

/s/
Jamie S. Felsen, Esq.

cc: Counsel of record via ECF